

BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD  
EASTERN WASHINGTON REGION  
STATE OF WASHINGTON

NEIGHBORHOOD ALLIANCE OF SPOKANE  
COUNTY,

Petitioner,

v.

SPOKANE COUNTY,

Respondent.

Case No. 14-1-0002

**ORDER DENYING MOTION FOR  
RECONSIDERATION**

This Matter came before the Board on Spokane County's Motion for Reconsideration filed on October 3, 2014. Petitioner's Response to the County's Motion for Reconsideration was received October 13, 2014. This Motion for Reconsideration arises from the Board's Final Decision and Order (FDO) issued on September 23, 2014. A Motion for Reconsideration of a final decision of the Board is governed by WAC 242-03-830. WAC 242-03-830(2) provides that a motion for reconsideration shall be based on at least one of the following grounds:

- (a) Errors of procedure or misinterpretation of fact or law, material to the party seeking reconsideration; or
- (b) Irregularity in the hearing before the board by which such party was prevented from having a fair hearing.

Spokane County asserts that the Board should reconsider its September 23, 2014, ruling relating to (1) Level of Service Standards, (2) Comprehensive Plan Policy CF.3.4, and (3) the Determination of Invalidity.

The Board notes that the September 23, 2014, FDO (pages 6-7) states in pertinent part as follows:

1 Spokane County's Response Brief did not specifically respond to  
2 Petitioner's prehearing briefing of the three legal issues in this case.  
3 Rather, Spokane County stated that it objects to all of the allegations in  
4 the Petition for Review and the Petitioner's Prehearing Brief and "[w]ithout  
5 any concession by Spokane County to the allegations made by Petitioner  
6 in its Petition for Review or in its Prehearing Brief, Spokane County  
7 acknowledges that it is likely that the Growth Management Hearings  
8 Board would enter an order of noncompliance on at least one of the issues  
9 raised." The County concluded by proposing either an extension of time  
10 for briefing and decision or a remand for action to comply.<sup>1</sup>

11 In other cases, the Board has held that raising new arguments, or even making a  
12 more precise argument, in a motion for reconsideration should not be allowed and is not  
13 provided for in the Board's Rules of Practice and Procedure.<sup>2</sup>

#### 14 **Level of Service Standards**

15 Spokane County states it accepts the Board's finding of noncompliance holding that  
16 the levels of service adopted in Resolution 2014-0004 do not provide the required  
17 measurable standard. The County further states it is working to correct the deficiencies in  
18 the levels of service standards. However, the County asks the Board to reconsider "the  
19 requirement that the level of service must be expressed as a numeric value related to  
20 population."<sup>3</sup>

21 The Board finds that the September 23, 2014, FDO does not conclude that "the level  
22 of service must be expressed as a numeric value related to population." Accordingly, there  
23 was no error of procedure or misinterpretation of fact or law. Regarding Level of Service  
24 Standards, the Motion for Reconsideration is DENIED.

#### 25 **Comprehensive Plan Policy CF.3.4**

26 Spokane County argues that the Board's statement on page 16, lines 11 through 15,  
27 of the Final Decision and Order is nonsensical, without basis in fact, and contradicts itself by  
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31 <sup>1</sup> Respondent's Response to Petitioner's Opening Brief (filed June 25, 2014), pp. 3-4.

32 <sup>2</sup> See, e.g., *Brinnon Group and Brinnon MPR Opposition v. Jefferson County*, WWGMHB Case No. 08-2-0014,  
Order on Petitioners' Motion for Reconsideration (October 14, 2008).

<sup>3</sup> Respondent's Motion for Reconsideration and Supporting Memorandum (filed October 3, 2014), pp. 4, 8.

1 referring to consistent and inconsistent developments in the same sentence.<sup>4</sup> However, the  
2 County has not shown that there was any misinterpretation of fact or law. The fact is the  
3 County deleted the five-year time limit on extending urban public facilities for developments  
4 inconsistent with the Comprehensive Plan. Moreover, the County states that “the time  
5 limitation that was deleted is of no consequence or effect.”<sup>5</sup> WAC 242-03-830(2) states that  
6 reconsideration can be granted for a misinterpretation of fact “material to the party seeking  
7 reconsideration.” Here, Spokane County has twice stated that deletion of the five-year time  
8 limit language is of no consequence or effect. Thus, the Board finds this language is not  
9 “material” to the County and does not satisfy the standard for reconsideration in WAC 242-  
10 03-830(2). The Board finds there is no error of procedure or misinterpretation of fact or law,  
11 and in addition the referenced language is not material to the County. Regarding  
12 Comprehensive Plan Policy CF.3.4, the Motion for Reconsideration is DENIED.  
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15 **Invalidity**

16 Since the Motion for Reconsideration is denied as to Level of Service Standards and  
17 Comprehensive Plan Policy CF.3.4, the Motion for Reconsideration must also be denied as  
18 to invalidity.  
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21 **ORDER**

22 Based on the foregoing, Spokane County’s Motion for Reconsideration is **DENIED**.

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24 ENTERED this 17th day of November, 2014.

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Raymond L. Paolella, Board Member

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Charles Mosher, Board Member

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<sup>4</sup> *Id* at p. 7.

<sup>5</sup> *Id* at p. 7.

Cheryl Pflug, Board Member

**Note: This is a final decision and order of the Growth Management Hearings Board issued pursuant to RCW 36.70A.300.<sup>6</sup>**

<sup>6</sup> A party aggrieved by a final decision of the Board may appeal the decision to Superior Court within thirty days as provided in RCW 34.05.514 or 36.01.050. See RCW 36.70A.300(5) and WAC 242-03-970. It is incumbent upon the parties to review all applicable statutes and rules. The staff of the Growth Management Hearings Board is not authorized to provide legal advice.